

UNITED STATES DISTRICT COURT

Eastern

District of

New York

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

CASE NUMBER: CR-05-750(ARR)

KARLOG SHIPPING COMPANY LTD

RONALD W. ZDROJESKI, ESQ

225 ASYLUM STREET, 13th FL. HARTFORD, CT 06103
Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

☒ pleaded guilty to count(s) one, two and three of the information.

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
33 USC 1908(a)	False Oil record Book	11/18/2004	one
18 USC 1505	Obstruction of Justice	11/17/2004	two
18 USC 1001(a)(2)	False Statement	11/18/2004	three

The defendant organization is sentenced as provided in pages 2 through 5 of this judgment.

☐ The defendant organization has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's

Federal Employer I.D. No.: _____

Defendant Organization's Principal Business Address:

Karlog Shipping Company, Ltd.

Defendant Organization's Mailing Address:

November 15, 2005

Date of Imposition of Judgment

Signature of Judge

Allyne R. Ross United States District Judge

Name and Title of Judge

November 15, 2005

Date

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PROBATION

The defendant organization is hereby sentenced to probation for a term of :

Three (3) years.

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

This Court imposes an aggregate fine of \$ 1,000,000.00 consisting of a \$500,000.00 fine on count 1 and \$250,000.00 fine on each of counts 2 and 3.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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SPECIAL CONDITIONS OF SUPERVISION

First, that the corporation implement and abide by the Environmental Management Systems Compliance Program that is attached to the plea agreement, which provides for the implementation of appropriate management practices to address defendant's compliance with United States laws in this area. Also, that the defendant follow the practices established by the compliance program during the term of Probation.

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 1,200	\$ 1,000,000	\$

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS \$ _____ \$ _____

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 501,200 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance with ☐ C or ☒ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:
\$125,000.00 TO BE PAID WITHIN SIX (6) MONTHS FROM THE DATE OF THIS ORDER;
\$125,000.00 TO BE PAID WITHIN EIGHTEEN (18) MONTHS FROM THE DATE OF THIS ORDER;
\$125,000.00 TO BE PAID WITHIN TWENTY FOUR (24) MONTHS FROM THE DATE OF THIS ORDER;
\$125,000.00 TO BE PAID WITHIN THIRTY (30) MONTHS FROM THE DATE OF THIS ORDER;
ALL PAYMENTS ARE TO BE MADE PAYABLE TO THE CLERK OF COURT FOR THE EASTERN DISTRICT OF NEW YORK.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

~~Karlog~~

1 investigations, takes these environmental regulations very
2 seriously, mostly rely on the honesty and voracity of the
3 crew members and on the documents presented to the Coast
4 Guard. Based on that, it was the government's contention
5 that a significant fine was warranted here.

6 We had the opportunity to review the financial
7 records of Karlog provided by the company and feel that they
8 find that what we were jointly recommending today is
9 appropriate and reflects the seriousness of the offenses that
10 took place, specifically the obstruction, the false
11 statements, and failure to maintain an accurate oil record
12 book. That is why the government is joining with counsel
13 recommending a disposition outlined in the plea agreement.

14 THE COURT: That's fine.

15 Well, based on the statements of both parties, I do
16 accept the agreement, obviously, or I wouldn't have proceeded
17 with the guilty plea.

18 I will impose on Karlog Shipping Company a total
19 aggregate fine of \$1 million, that is, \$500,000 on Count One,
20 and \$250,000 on each of Counts Two and Three. I will direct
21 a payment schedule as follows: \$500,000, plus \$1200 in
22 special assessments, to be paid today; within six months,
23 this is to be followed by a payment of \$125,000; within 18
24 months, an additional payment of \$125,000; within 24 months,
25 a third payment of \$125,000; and within thirty months, a

1 fourth payment of \$125,000. They are all to be made by check
2 payable to the Clerk of the Court.

3 I further will impose a term of three years
4 probation with special conditions:

5 First, that the corporation implement and abide by
6 the Environmental Management System Compliance Program that
7 is attached to the plea agreement, which provides for the
8 implementation of appropriate management practices to address
9 defendant's compliance with United States laws in this area.

10 Also, that the defendant follow the practices
11 established by the compliance program during the term of
12 probation that I have imposed, that within thirty days -- I
13 gather this has already happened, the Coast Guard has already
14 been given a list identifying all ships?

15 MR. POUX: I'm not sure the Coast Guard has. The
16 government has. It says Coast Guard in the agreement.

17 THE COURT: That's fine. That's fine.

18 So, is all of subparagraph (c) complied with
19 already?

20 MR. POUX: Yes, Your Honor.

21 THE COURT: I brief that's it; is that correct?

22 MR. ZDROJESKI: We have one other matter concerning
23 the bond, your Honor.

24 THE COURT: Yes.

25 MR. RUSSO: Your Honor, there was a bond posted on

1 this matter, when this matter originally arose, and the bond
2 was issued pursuant to the Coast Guard's authority to ask for
3 a bond pursuant to the act to prevent pollution from ships,
4 which is the first count of this Information. \$500,000 was
5 posted as a bond for that violation. Your Honor has now
6 sentenced Karlog to a fine of \$500,000 on that Count One,
7 therefore, the conditions for the bond have been satisfied.
8 We would, therefore, ask the court to, in addition to what
9 you have already done, approve for release of the bond so
10 that we can go to the Coast Guard and ask them to release our
11 bond.

12 THE COURT: Yes.

13 MR. POUX: Your Honor, if I could respond.

14 The typical matter, the discussion of how the fine
15 was going to be allocated, I don't think was in the plea
16 agreement. I might have missed it. I wasn't aware that the
17 court specifically allocated where the \$500,000 --

18 THE COURT: It certainly is nothing that I read.

19 MR. POUX: Okay.

20 I would state this, in terms of what the bond is,
21 your Honor, in these types of cases, the surety bond, that is
22 essentially an agreement reached by counsel for the company
23 and the Coast Guard. There is provision that allows the ship
24 to depart, even though there could be administrative civil or
25 criminal investigations going on, and just as it states, the

1 bond, the agreement is between the Coast Guard and the
2 company. The government on the criminal side, myself,
3 Mr. Frisch, we are not involved in those negotiations.

4 THE COURT: Fine.

5 MR. POUX: There was no part of our plea agreement
6 discussed any agreement to release the bond. We --.

7 THE COURT: What is typically done in these cases?

8 MR. POUX: It is hard to say what is typical in many
9 of these cases, your Honor. The full fine is paid on the
10 date of sentencing, so the bond is transferred over. This is
11 a somewhat unique situation in that there's a payment plan
12 that is in place here.

13 What I would suggest, and what I have suggested is
14 the appropriate request for this, is for counsel to ask that
15 the Coast Guard release the bond. I think there are
16 administrative remedies that counsel has, and if those are
17 not met, then I believe they can come back and ask for
18 satisfaction from the court. I just -- I'm a little unclear
19 of the jurisdiction to ask in the context of this criminal
20 case for the court to order a release of the bond. I know
21 the Coast Guard has been contacted and there had been
22 discussion with counsel. We had received, I guess, a copy
23 of this motion yesterday, I know.

24 THE COURT: I didn't get a copy.

25 MR. ZDROJESKI: It was filed yesterday.

1 THE COURT: With a courtesy copy to chambers?

2 MR. ZDROJESKI: Yes, Your Honor, that's my
3 understanding.

4 THE COURT: No.

5 MR. POUX: Counsel raised it with me. I don't mean
6 to pretend to not hear about it until today. I did see a
7 copy of the motion.

8 THE COURT: In light of all of that, I will just let
9 counsel work it out with the Coast Guard.

10 MR. ZDROJESKI: Your Honor, I would respectfully
11 request -- we'll attempt to do that, in the event --

12 THE COURT: If it doesn't work out, if you give me
13 some papers in advance, as opposed to just electronic filing,
14 and let me know when I will be receiving the papers on, and I
15 will get papers from the government, I will be delighted to
16 deal with it.

17 MR. ZDROJESKI: Thank you, your Honor.

18 MR. RUSSO: Thank you, Judge.

19 THE COURT: I take it there is no basis for an
20 appeal here of any kind, therefore, there's no need to
21 proceed with that. All right.

22 MR. ZDROJESKI: I don't think so, your Honor.

23 THE COURT: Okay.

24 MR. ZDROJESKI: Your Honor, not appearing here in
25 the Eastern District for some time, does your Honor assign a

1 probation officer or are we supposed to go upstairs or
2 downstairs to meet with probation here?

3 THE COURT: Dennis is the one who will know, okay.

4 MR. POUX: Just to make sure I understand, in
5 regards to Mr. Kokkinos and Mr. Chalkias, I understand -- I
6 believe they have been released from their sentence, but not
7 able to leave because there's some question, and I just have
8 been asked to prepare an order, and I want to make sure I
9 understood.

10 THE COURT: They can serve supervised release at
11 home. Probation won't release them until I order that.

12 Do you have an application?

13 MR. PICKELLE: Paul Pickelle, P-i-c-k-e-l-l-e, and I
14 represent Mr. Chalkias.

15 THE COURT: And Mr. Kokkinos?

16 MR. PICKELLE: For the purpose of this application.

17 THE COURT: For the purpose of this application, the
18 two individuals.

19 MR. PICKELLE: My application would be that the
20 court would order their probation to be unsupervised, so that
21 they can leave the country and come back as crew members on
22 occasion.

23 THE COURT: I take it there is not going to be any
24 illegality relating to their return to the United States on
25 an offense of this nature?

1 MR. POUX: Not based on the court's order.

2 I believe when their name is submitted through
3 Customs and the Coast Guard, there might be some issue and
4 they may not be allowed to return, but that the would be a
5 decision, I believe, to be made by the Coast Guard.

6 MR. PICKELLE: I'm not aware of anything at this
7 point.

8 THE COURT: I don't ordinarily confer permission to
9 return, because that's not up to me. But I will say that as
10 far as I'm concerned, their supervised release may be served
11 in an unsupervised fashion at home.

12 MR. PICKELLE: Thank you, Your Honor.

13 MR. POUX: Thank you very much, your Honor.

14 (The pleading and sentence is concluded.)
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